

content after conducting a reasonable inquiry for such information.

With respect to processors, given the requirements of 40 CFR 721.5(a)(2), a processor of the chemical substance should have received notification that the chemical substance is the subject of a SNUR. A processor is not required to submit a SNUN for its unknowing processing of a chemical substance subject to a SNUR if (upon obtaining knowledge) the processor can document that when the past processing occurred, the processor neither knew the chemical identity of the substance it was processing nor knew that substance was subject to a SNUR. See 40 CFR 721.5(c). EPA would generally expect that processors would only fail to be aware of the presence of a chemical subject to a SNUR if the manufacturer (including importer) or upstream processor of the chemical substances failed to meet their obligations under 40 CFR 721.5(a)(2).

With respect to importers, EPA disagrees that it would be appropriate or necessary for the SNUR itself to define screening procedures to be employed for compliance purposes. The Agency did not propose to require a particular screening procedure and, for the following reasons, it does not agree that particular screening procedures should be specified and incorporated into the final rule.

First, EPA believes that adding these sort of screening-effort exemptions, specifically for importers of chemical substances as part of articles, would be especially difficult to reconcile with the general statutory prohibition (under TSCA section 5(a)(1)) on manufacturing or processing a chemical substance for a significant new use without prior notice to EPA. The issue under the statute is whether or not an importer actually imports a substance. This is a separate question from the importers' level of knowledge or level of effort to obtain knowledge respecting the content of the imports.² With respect to SNURs, EPA notes that its direct rulemaking authority is to identify significant new uses under section 5(a)(2). The Agency has been appropriately cautious in exercising its implicit rulemaking authority to limit the applicability of section 5(a)(1). EPA recognizes that it did previously exercise such implicit rulemaking authority when establishing 40 CFR 721.45(f). However, as noted in

this unit, the exemption at 40 CFR 721.45(f) was established along with a broad reservation of authority to withdraw the exemption where, as here, it is inaccurate to assume that there would not be exposure to the substance simply because it is present as part of an article. And a screening-effort exemption is especially difficult to reconcile with the statute in the case of importers. With importers, unlike with processors, there are no upstream entities with a duty under TSCA to notify importers of the presence of a chemical substance subject to a SNUR.

Second, establishing a safe-harbor for importers based on lack of knowledge would create incentives for foreign suppliers to deliberately withhold information from importers. This could greatly reduce the efficacy of this SNUR. Currently, when an importer wishes to import a substance it knows would be subject to notification requirements, but for which the chemical identity is claimed as CBI by a foreign manufacturer, EPA's longstanding practice when reviewing PMNs and SNUNs is to accept the relevant information on chemical identity directly from the foreign manufacturer. See, (Ref. 7) ("[t]he principal importer need not know the specific chemical identity of the imported substance" and "may have its foreign manufacturer or supplier, or some other person, report the chemical identity to EPA.") Offering an outright regulatory exemption to an importer simply because it is ignorant of the existence of a SNUR-regulated substance in the imported article (after conducting a prescribed inquiry) would allow foreign suppliers to short-circuit this process simply by refusing to divulge to the importer whether the import contains a chemical substance subject to SNUR.

Third, to the extent the chemical substance subject to the SNUR is only "unintentionally present" at the point of foreign manufacture, it is already exempt from reporting by the importer as an imported impurity. See 40 CFR 721.3 (chapeau), 40 CFR 720.3(m), and 40 CFR 721.45(d). Thus, importers are not required to submit a SNUN for a substance based simply on that substance's presence as an impurity (*i.e.*, a chemical substances unintentionally present with another chemical substance).

Fourth, whether and how it may appropriate for importers to screen for benzidine-based chemical substances will depend on many factors, including their current state of knowledge about the articles that they import and the potential risk of unknowingly importing articles that contain these chemical

substances. The relevant factors are largely impossible for EPA to establish at this time, given that there is currently no on-going import of these substances for the designated significant new uses.

Finally, EPA did conduct additional analysis of potential screening burden to explore commenters' concerns. As described in Unit X.H., EPA acknowledges the costs of the various activities that certain entities may choose to undertake, in response to this rule, to ensure that the chemicals they import or process as part of articles do not trigger SNUN submission requirements (Ref. 20). Based on EPA's economic analysis and the responses to the proposed rule, EPA does not believe that these costs will be significant for any individual entity.

H. Costs Associated With Making the Exemption for Persons That Import or Process Chemical Substances as Part of Articles Inapplicable

Some comments note that the economic analysis, which focuses on the cost of filing a SNUN, does not include any analysis of the costs that might be associated with screening articles to determine whether these SNURs would apply. One comment also notes that "the preambles to the proposed rules do not discuss what, if any obligations companies have to screen articles for the chemicals included in the SNUR's."

With respect to processors: existing SNUR regulations already provide that the unknowing processing of a chemical substance does not itself trigger SNUN requirements if the processor can (upon obtaining knowledge) document that when the past processing occurred, the processor neither knew the chemical identity of the substance it was processing nor knew that substance was subject to a SNUR. See 40 CFR 721.5(c).

With respect to importers: Based on an assessment of current market activity in the economic analysis, EPA believes that the chemicals subject to the final SNUR are not currently being imported into the United States for the identified significant new uses in articles. EPA received no public comments on the proposed SNUR that indicate that importation of these benzidine-based chemical substances for the finalized significant new uses, in articles or otherwise, is ongoing. However, because this SNUR makes inapplicable the exemption for persons that import or process chemical substances as part of articles, companies may take actions to ensure that they do not import any articles containing the subject chemical substances after promulgation of this rule, by such means they deem

² The limiting clause in the definition of "principal importer" at 40 CFR 721.3—"knowing that a chemical substance will be imported"—is a limit based on the person's knowledge that he or she is engaged in an import transaction, not a limit based on the person's knowledge of a particular chemical's identity and regulatory status. (48 FR 21727, May 13, 1983) (FRL 2998-5).

appropriate. This is not necessarily a new consideration for importers given that importers of mixtures have needed to be aware of chemical substances subject to a SNUR that may be a component of imported mixtures. Whether and how companies respond will depend on many factors, including their current state of knowledge about articles that they import and their own assessments of the potential risk of unknowingly importing articles that contain these chemicals. As noted in this unit, EPA did conduct additional analysis of burdens that may be associated with activities entities may undertake to ensure the chemicals they import or process as part of articles do not trigger SNUN submission requirements (Ref. 20).

In any event, EPA did not propose to mandate any particular level of screening of imported or processed articles. The preamble to the proposed SNUR did not discuss the precise steps that an importer or processor must take in this regard because there is no precise level of screening by which the manufacturer or processor could be separately liable under the rule (if not performed) or by which a manufacturer or processor could obtain “safe harbor” from what would otherwise be a violation of the rule. While EPA might potentially take screening practices into consideration when evaluating a particular instance in which the SNUR was nevertheless violated, that would be

as a matter of enforcement policy, not as a provision of the rule itself.

EPA has included estimates for some activities that importers may undertake (e.g., supplier inquiries) in order to evaluate the likelihood of chemicals being imported as part of articles. These costs will vary for individual companies and their experience with suppliers. Awareness of article components and constituents is becoming more commonplace as companies frequently operate on a global scale and are subject to numerous regulatory requirements around the world that affect product stewardship responsibilities. Existing requirements that may compel a company to investigate an article’s components include the Consumer Product Safety Act, California’s Proposition 65, and the EU’s regulation on Registration, Evaluation, Authorization and Restriction of Chemical (REACH), which requires customer notification about the presence of certain chemical in articles that a company distributes. U.S. importing companies may already be familiar with the process of determining whether the articles they import contain restricted chemical substances, if they are subject to the requirements cited above or various U.S. regulations, such as the Product Safety Improvement Act (CPSIA) of 2008, Washington’s Children’s Safe Product Act, and Maine’s Act to Protect Children’s Health and the Environment from Toxic

Chemicals in Toys and Children’s Products (Ref. 20).

Given the existing regulatory limitations on certain chemicals both internationally and within the United States, regulated industries have begun to develop industry-wide processes and other resources to obtain information on chemical substances in articles. Policies and procedures could include supplier agreements, such as Hewlett Packard’s requirement that suppliers meet their General Specifications for the Environment (GSE) (Ref. 21) and Walmart’s requirement that suppliers participate in International Compliance Information Exchange (iCiX) to manage and share compliance information throughout the supply chain (Ref. 22). More extensive policies and procedures could even include product testing. Companies may choose to use existing procedures or develop new ones that could range from document review, to supplier agreements, to product testing.

Additional analysis conducted by EPA on activities that companies may choose to undertake to ensure that the chemicals they import or process as part of articles do not trigger requirements of the SNUR shows a wide range of potential activities and associated costs. The conduct of these activities and associated costs are at the discretion of the company. Table B of this unit shows EPA’s estimated range of costs associated with some of these potential activities for importers of articles.

TABLE B—RANGE OF COSTS ASSOCIATED WITH AN IMPORTER’S IDENTIFICATION OF CHEMICALS SUBJECT TO SNURs IN ARTICLES

Activity	Cost US (\$)	Notes
Per Rule Costs		
1. Rule familiarization	\$55	Cost typically already included in SNUR Economic Analyses.
2. Identify the type of imported articles that potentially contain the restricted substances.	\$130 to \$1,550	Actual costs may vary based on number of articles imported and the complexity of the article itself (number of components).
3. Identify all suppliers involved.	\$950	Actual costs may vary depending on the number of articles imported, number of suppliers, and frequency of supplier changes.
6. Recordkeeping	\$10	Cost typically already included in SNUR Economic Analyses.
Article-Related Costs		
4. Collect data from suppliers.	\$5 to \$515 per article reviewed. \$0 if no data collected	Actual costs only apply to those companies that choose to collect data from suppliers. They will vary depending on the specific data collection method chosen. Total costs depend on considerations including the number of articles imported, number of suppliers, and frequency of supplier changes.
5. Chemical testing	\$130 per article tested. \$0 if no testing.	Actual costs only apply to those companies that choose to collect data from suppliers. Total costs per company will depend on considerations including the number of articles tested, which may be affected by the number of suppliers and risk associated with each, and frequency of supplier changes.

Should processors of articles need to demonstrate compliance with a SNUR,

it is expected that they could use the shipping or labeling documents

received with the article in the ordinary course of business. As these documents

would be received and stored anyway, as per standard business practices, the elimination of the exemption in the SNUR for persons that import or process chemical substances as part of articles would be unlikely to lead such persons to incur significant additional costs. To the extent that processors choose to undertake more steps to identify regulated chemicals as part of articles, the costs of these activities would be similar to those in Table B of this unit for importers of similar size, supply chain complexity, and level of compliance with other chemical regulations.

There are a number of regulations, including California's Proposition 65 and the EU's REACH that currently restrict or otherwise affect the use of certain benzidine-based substances, particularly in their use as dyes in textiles and leather. California's Proposition 65 Chemical List includes benzidine-based dyes as a potential carcinogen and requires that firms provide a clear and reasonable warning before knowingly and intentionally exposing anyone to a listed chemical. This warning may include the labeling of consumer products (Refs. 23–24).

The EU has banned, in textile and leather articles which may come into direct and prolonged contact with humans, the use of azo dyes which can break down to release any of 22 listed carcinogenic aromatic amines (including benzidine and its congeners) in amounts above 30 ppm (Ref. 25). The European Commission's Directorate General for Health and Consumers maintains the RAPEX database that member countries can use to report dangerous products and the measures they have taken to prevent or restrict those products. Despite the EU ban, small numbers of products containing such azo dyes have recently been listed on RAPEX. The products are typically voluntarily withdrawn from the market and/or destroyed by the importer or have been placed under an order by the authorities to cease sales (Refs. 26, 27). Therefore, azo dyes in imported articles still remain a potential issue in the EU. Other countries have also banned the manufacture and use of the azo dyes in textiles. Currently the manufacture of azo dyes is banned in South Korea and Japan (Ref. 27). Use of these chemicals is banned by Egypt, India, China, South Korea, Taiwan and Vietnam (Ref. 28), and Indonesia has banned the use of the dyes in children's and baby's clothing (Ref. 29). In 2012, the Japanese textiles and leather industry announced voluntary restrictions of the chemicals (Refs. 29, 30). Canada has also expressed concern about the potential release of

benzidine or its congeners from azo dyes and is evaluating potential approaches for addressing azo dyes (Ref. 30). Organizations, such as the American Apparel & Footwear Association (AAFA), have developed a comprehensive Restricted Substances List (RSL) as a reference for companies and have developed a toolkit to help apparel and footwear companies to better manage chemicals throughout the supply chain. Given the current level of international and domestic regulation and attention to benzidine-related chemicals, EPA believes that importers and processors of articles may already have undertaken a number of activities to manage chemicals within their supply chains and generally to deselect for these chemicals. Therefore, EPA expects that companies that could potentially commence importing or processing benzidine-based chemicals as part of articles may already have some knowledge of the chemicals within their supply chain and would undertake few of the activities listed in Table B and would fall toward the lower end of the cost range for any activities undertaken. More detailed information is included in EPA's economic analysis.

EPA does not believe that the subject chemicals are entering the United States in imported articles for the significant new uses defined by the final regulation. However, companies may screen or initiate other activities to determine if articles they import in the future contain chemicals included in this SNUR. EPA notes that no commenters provided data that could be used to estimate what, if any, costs might be associated with continued assurance that imported articles are free from the chemical substances subject to this SNUR. The number of companies that may take such actions is not known, nor is the level of action that may be taken by a particular company. Based on EPA's economic analysis and the responses to the proposed rule, EPA does not believe that these costs will be significant for any individual entity.

I. Import and Export Regulations for Chemical Substances as Part of Articles

One comment noted that EPA is not proposing to change the way in which TSCA's export and import rules (pursuant to TSCA sections 12(b) and 13, respectively) apply to articles containing these chemical substances. The comment indicates that (under the status quo of the import rules) the U.S. Customs and Border Protection (CBP) will not be screening articles for the chemical substances in the proposed SNURs.

EPA agrees that the TSCA import rules are important TSCA compliance mechanisms and that 19 CFR 12.119 allows EPA to establish section 13 import certification requirements for chemicals in articles. However, declining to subject importers to one notice requirement (section 13 import certification) does not render another notice requirement (section 5 SNUN submission) unenforceable.

In this case, EPA did not propose to require section 13 import certification or section 12 export notification for the subject chemical substances when part of articles. This is consistent with EPA's past practice of making the exemption at 40 CFR 721.45(f) inapplicable without also requiring import certification or export notification for these chemical substances as part of articles (40 CFR 721.2800; 40 CFR 721.10068). However, the Agency continues to study this issue and has not ruled out a later proposal to require import certification and/or export notification for these chemical substances as part of articles.

With or without an import certification requirement, it is the importer that is "responsible for insuring that chemical importation complies with TSCA just as domestic manufacturers are responsible for insuring that chemical manufacture complies with TSCA." 40 CFR 707.20(b)(1).

J. Distinguishing Between Chemicals in Non-Article Form and Other Products

One comment contends that the rule, as proposed, "would not allow [EPA] to distinguish between a chemical being brought into the United States in its raw form and a chemical being brought in on a shift as a dye or finish." The comment goes on to state that treating them the same way is unrealistic and scientifically unsound.

EPA disagrees with the comment and notes that it was not proposing to eliminate all distinctions, in all regulatory provisions under TSCA, between import of a chemical substance in non-article form, and import of a chemical substance as part of an article. The rule simply removes one particular distinction between persons who import or process a chemical substance in non-article form and persons who import or process a chemical substance as part of an article. Thus, while the raw chemical manufacturer and the article importer may both be required to submit a SNUN, EPA would be able to distinguish between the two scenarios, as appropriate, in its review of the SNUN. The SNUN review process will allow case-by-case analysis of each circumstance.

With respect to the commenter's comparison of the volume at which these chemical substances are currently manufactured in non-article form and the volume at which these chemical substances are currently manufactured in article form (*i.e.*, via import of a chemical substance as part of an article), EPA's conclusion, with respect to the significant new uses, is that the two volumes are currently the same. This is because EPA has concluded that there is no current manufacture of these chemical substances for the significant new uses, either through domestic manufacture of the substances in non-article form, or through import of articles containing the substances. Thus, both production volumes are currently zero.

K. Provisions for Processors

In a comment submitted after the closing of the public comment period, one commenter questions the utility of a provision for processors at 40 CFR 721.5(c), as applied to notice requirements under this rule. The commenter states that 40 CFR 721.5(c) would not protect companies unless they could document lack of knowledge that a SNUR applies. The commenter believes that this requirement is therefore impossible to meet, explaining that it is impossible to document what one does not know.

EPA will respond to this comment, although it was submitted after the closing of the public comment period for this action, because it relates closely to the timely submitted comments. EPA disagrees that applying 40 CFR 721.5(c) is impossible or impracticable. The provisions at 40 CFR 721.5(c) provide that the unknowing processing of a chemical substance does not itself trigger SNUR submission requirements, subject to meeting certain documentation requirements. Upon obtaining knowledge that it previously engaged in activities covered by the SNUR, a processor can at that time assemble evidence relating to the period when the past processing occurred. Specifically, this would be evidence bearing on whether the processor previously knew the chemical identity of the substance it was processing or previously knew that that substance was subject to a SNUR. Evidence to establish a prior lack of knowledge could include items such as a purchase order and, where applicable, a material safety data sheet (MSDS) that indicates neither the relevant chemical identity nor the presence of a chemical subject to a SNUR. Another type of evidence would be the affidavit of a person in a position of appropriate authority swearing to the

prior lack of knowledge. EPA would generally consider the wording on a purchase order and, where applicable, an MSDS, along with an affidavit as described above, in determining whether there is sufficiently clear documentation for purposes of 40 CFR 721.5(c). However, if there was also contrary documentary evidence, indicative of the prior possession of knowledge (*e.g.*, receipt of a notice given to the processor pursuant to 40 CFR 721.5(a)(1)(i)) then the overall documentary evidence would not allow the processor to take advantage of the provisions of 40 CFR 721.5(c).

L. Potential Ongoing Use of DnPP

One commenter identified a potential ongoing use of DnPP in grease in automotive switches. The commenter requested that EPA exclude the identified use from the SNUR.

After investigation, EPA has determined that there is no ongoing use of DnPP in grease in automotive switches.

The commenter states that "[b]ased on current use information . . . [the commenter] believes that DnPP is being used in grease in some automotive switches." The proposal stated that EPA "welcome[d] specific information that documents [ongoing] use." Yet the commenter does not provide any current use information to substantiate this belief. When raising a potential ongoing use, it is generally preferable to include information substantiating that use, especially where the entity raising that use is not an actual manufacturer (including importer) or processor of that chemical substance for that use and thus would not be anticipated to have direct knowledge of that use.

In order to determine whether there is an ongoing use of DnPP in grease in automotive switches, EPA performed targeted searches of sources including IHS Chemical Economics Handbook, MSDS search tools such as Seton's MSDS Hazard Communication Library and patent searches and was unable to substantiate this use as an ongoing use of DnPP. EPA reviewed several grease MSDS, and no grease MSDS listed any phthalate in its composition. EPA's DfE alternatives analysis also has not identified use in grease in automotive switches as an ongoing use of DnPP.

EPA also conducted patent searches for grease in automotive switches, and dampening greases in general. A patent search found mentions of the term phthalates with electronic components, but not DnPP specifically for automotive switches. However, one patent gave a very broad alkyl range that release of phthalates C4 and C8 were observed

during the vacuum burn pretreatment of electronic components [disc drives]. This process is routine treatment to remove volatiles from electronic components, including electronic switches (Vacuum baking process USP 6,051,169 and Electric switches USP 3,694,601). EPA does not believe the existence of this information is indicative of current use of DnPP in grease in automotive switches because, patents do not necessarily indicate current use. As noted in the proposed rule (Ref. 1), no IUR production volume data were reported for DnPP during the 2006, 2002, 1998 and 1994 reporting cycles. In addition, no production volume data were reported for the 2012 CDR (Ref. 17)

Accordingly, EPA is declining to exclude use "in grease in automotive switches" from the significant new uses of DnPP.

M. Reliance on Inventory Update Rule (IUR) Data in Assessing Ongoing Use of DnPP

One commenter suggests that EPA relied solely on the IUR data for determining ongoing uses of DnPP, and that such reliance may be misleading or incomplete. The commenter notes that ongoing uses below the IUR reporting threshold of 10,000 lbs would not be reported to EPA through the IUR process.

EPA uses IUR data to identify ongoing uses of chemical substances. However, this is not the sole source of information relied upon to support the SNUR. EPA first identified a SNUR as a regulatory alternative for DnPP in the Phthalates Action Plan because EPA found that the most recent IUR data contained no reports of DnPP being produced in or imported into the United States. In proposing the SNUR, EPA prepared the "Economic Analysis of the Proposed Significant New Use Rule for Di-n-pentyl Phthalate (DnPP)" (Ref. 31) and conducted internet queries in order to ascertain whether there were any ongoing uses of DnPP at levels below the IUR reporting threshold. During the course of this research EPA found that several companies which either use or sell DnPP as a chemical standard for use in phthalates testing. Accordingly, the significant new uses of DnPP does not include use of DnPP as a chemical standard for analytical experiments as a significant new use.

N. Design for the Environment (DfE) Assessment for Phthalates

One commenter noted that EPA has undertaken a DfE project focused on phthalates, including but not limited to, DnPP. The commenter believes that the

DfE phthalates alternative assessment will provide valuable information about potential alternatives to industries using phthalates. The commenter recommends that EPA refrain from further action on any phthalate until the DfE project is finalized.

EPA disagrees that finalization of the DnPP SNUR should be delayed until the DfE project is complete. (To the extent the comment is discussing the timing of other potential EPA actions to address phthalates, it is outside the scope of this proposal.)

The comment states that the final DfE report would identify alternatives, their viability as substitutes, and EPA's comparative hazard information. EPA disagrees that this report is likely to provide information relevant to this SNUR. When defining the "significant new use," EPA is limited to uses of the chemical substance that are not ongoing. The DfE report is not expected to identify alternatives for chemical substances that are generally no longer in use. It is already clear that there are many alternatives to DnPP use, because there are almost no ongoing uses of DnPP. Furthermore, the DfE report is not expected to suggest DnPP itself as an alternative to another phthalate because of its toxicity relative to other phthalates. Even if the DfE report were to identify a significant new use of DnPP as an alternative to some other chemical substance, then EPA would have the opportunity to consider that information at such time as it received the significant new use notice for DnPP.

EPA notes that it is a regular practice to finalize SNURs for chemical substances that have not undergone a DfE assessment. Given that the DfE report is unlikely to provide additional information relevant to EPA's significant new use determination for DnPP, that newly available information respecting any particular use of DnPP could be included in the significant new use notice itself, and that further delay would increase regulatory uncertainty, EPA disagrees that it would be appropriate to delay issuance of the SNUR on DnPP pending the release of the DfE report.

XI. References

The following is a listing of the documents that are specifically referenced in this action. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical

person listed under FOR FURTHER INFORMATION CONTACT.

- U.S. EPA. Proposed Rule; Benzidine-Based Chemical Substances; Di-*n*-pentyl phthalate (DnPP); and Alkanes, C12–13, Chloro; Significant New Use Rules. 77 FR 18752, March 28, 2012 (FRL–8865–2).
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- Testimony of James J. Jones, Acting Assistant Administrator Office of Chemical Safety and Pollution Prevention, U.S. Environmental Protection Agency before the Committee on Environment and Public Works and the Subcommittee on Superfund, Toxic and Environmental Health United States Senate, July 24, 2012, available at http://www.epa.gov/ocir/hearings/pdf/2012_jjones_testimony1.pdf.
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XII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This final rule has been designated by OMB as a "significant regulatory action" under section 3(f) of Executive Order 12866 (58 FR 51735, October 4, 1993). Accordingly, EPA submitted this action to OMB for review under Executive Order 12866 and 13563 (76 FR 3821, January 21, 2011), and any changes made in response to OMB recommendations are documented in the docket.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA, 44 U.S.C. 3501 *et seq.* Burden is defined in 5 CFR 1320.3(b). The information collection activities associated with existing chemical SNURs are already approved by OMB under OMB control number 2070-0038 (EPA ICR No. 1188); and the information collection activities associated with export notifications are already approved by OMB under OMB control number 2070-0030 (EPA ICR No. 0795). If an entity were to submit a SNUN to the agency, the annual burden is estimated to be less than 100 hours per response, and the estimated burden for an export notifications is less than 1.5 hours per notification. In both cases, burden is estimated to be reduced for submitters who have already registered to use the electronic submission system. Additional burden, estimated to be less than 10 hours, could be incurred where additional record keeping requirements

are specified under 40 CFR 721.125(a), (b), and (c).

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in Title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9 and included on the related collection instrument, or form, if applicable. EPA is amending the table in 40 CFR part 9 to list this SNUR. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of the PRA and OMB's implementing regulations at 5 CFR part 1320. Since the existing OMB approval was previously subject to public notice and comment before OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend the table is unnecessary. As a result, EPA finds that there is "good cause" under section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), to amend this table without further notice and comment.

C. Regulatory Flexibility Act (RFA)

Pursuant to section 605(b) of the RFA, 5 U.S.C. 601 *et seq.*, I hereby certify that promulgation of this SNUR will not have a significant economic impact on a substantial number of small entities. The rationale supporting this conclusion is as follows.

EPA generally finds that proposed and final SNURs are not expected to have a significant economic impact on a substantial number of small entities (See, e.g., Ref. 34). Since these SNURs will require a person who intends to engage in such activity in the future to first notify EPA by submitting a SNUN, no economic impact will occur unless someone files a SNUN to pursue a significant new use in the future or forgoes profits by avoiding or delaying the significant new use. Although some small entities may decide to engage in such activities in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemical substances, the Agency receives only a handful of notices per year. During the six year period from 2005–2011, only three submitters self-identified as small in their SNUN submission (Refs. 5, 32, 33). EPA believes the cost of submitting a SNUN is relatively small compared to

the cost of developing and marketing a chemical new to a firm and that the requirement to submit a SNUN generally does not have a significant economic impact.

A SNUR applies to any person (including small or large entities) who intends to engage in any activity described in the rule as a "significant new use." In the proposed SNUR EPA preliminarily determined, based in part, on the Agency's market research, that these chemical substances are not being manufactured (including imported) or processed for a significant new use. In the case of the benzidine-based dyes, this preliminary determination also included importation and processing of these chemical substances as part of articles (Ref. 1). EPA received no public comment indicating any ongoing importation of the benzidine-based chemical substances as part of articles or otherwise. Therefore, EPA is finalizing its determination that these uses, including the importation and processing of benzidine-based dyes as part of articles, are new and not ongoing. Thus no small entities presently engage in a significant new use.

Therefore, EPA believes that the potential economic impact of complying with this SNUR is not expected to be significant or adversely impact a substantial number of small entities.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reason to believe that any State, local, or Tribal government would be impacted by this rulemaking. As such, EPA has determined that this regulatory action would not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of sections 202, 203, 204, or 205 of UMRA, 2 U.S.C. 1531–1538.

E. Executive Order 13132: Federalism

This action does not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications because it will not have any effect (*i.e.*, there will be no increase or decrease in authority or jurisdiction) on Tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 (65 FR 67249, November 9, 2000), does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because this action is not intended to address environmental health or safety risks for children.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not expected to affect energy supply, distribution, or use.

I. National Technology Transfer and Advancement Act (NTTAA)

Since this action does not involve any technical standards, section 12(d) of NTTAA, 15 U.S.C. 272 note, does not apply to this action.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

This action does not entail special considerations of environmental justice related issues as delineated by

Executive Order 12898 (59 FR 7629, February 16, 1994), because EPA has determined that this action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. This action does not affect the level of protection provided to human health or the environment.

K. Congressional Review Act (CRA)

Pursuant to the CRA, 5 U.S.C. 801 *et seq.*, EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: December 16, 2014.

Wendy C. Hamnett,

Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR chapter I is amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241,

242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add the following sections in numerical order under the undesignated center heading “Significant New Uses of Chemical Substances” to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

40 CFR citation	OMB Control No.
* * * *	* * * *
Significant New Uses of Chemical Substances	
* * * *	* * * *
721.10226	2070–0038
721.10227	2070–0038
* * * *	* * * *

PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. Revise § 721.1660 to read as follows:

§ 721.1660 Benzidine-based chemical substances.

(a) *Chemical substances and significant new uses subject to reporting.*
(1) The benzidine-based chemical substances listed in Table 1 and Table 2 of this section are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

TABLE 1—BENZIDINE-BASED CHEMICAL SUBSTANCES

CAS or accession No.	C.I. name	C.I. No.	Chemical name
117–33–9	Not available	Not available	1,3-Naphthalenedisulfonic acid, 7-hydroxy-8-[2-[4'-[2-(4-hydroxyphenyl)diazenyl][1,1'-biphenyl]-4-yl]diazenyl]-
65150–87–0	Not available	Not available	1,3,6-Naphthalenetrisulfonic acid, 8-hydroxy-7-[2-[4'-[2-(2-hydroxy-1-naphthalenyl)diazenyl][1,1'-biphenyl]-4-yl]diazenyl]-, lithium salt (1:3)
68214–82–4	Direct Navy BH	22590	2,7-Naphthalenedisulfonic acid, 5-amino-3-[2-[4'-[2-(7-amino-1-hydroxy-3-sulfo-2-naphthalenyl)diazenyl][1,1'-biphenyl]-4-yl]diazenyl]-4-hydroxy-, sodium salt (1:2)
72379–45–4	Not available	Not available	2,7-Naphthalenedisulfonic acid, 4-amino-5-hydroxy-3-[2-[4'-[2-[2-hydroxy-4-[(2-methylphenyl)amino]phenyl]diazenyl][1,1'-biphenyl]-4-yl]diazenyl]-6-(2-phenyldiazenyl)-
Accession No. 21808 .. CAS No. CBI (NA)	CBI	CBI	2,7-Naphthalenedisulfonic acid, 4-amino-5-hydroxy [[[(substituted phenylamino)] substituted phenylazo] diphenyl]azo-, phenylazo-, disodium salt. (generic name)

TABLE 1—BENZIDINE-BASED CHEMICAL SUBSTANCES—Continued

CAS or accession No.	C.I. name	C.I. No.	Chemical name
Accession No. 24921 .. CAS No.	CBI	CBI	4-(Substituted naphthalenyl)azo diphenyl azo-substituted carbopolycycle azo benzenesulfonic acid, sodium salt. (generic name)
Accession No. 26256 .. CAS No. CBI (NA)	CBI	CBI	4-(Substituted phenyl)azo biphenyl azo-substituted carbopolycycloazo benzenesulfonic acid, sodium salt. (generic name)
Accession No. 26267 .. CAS No. CBI (NA)	CBI	CBI	4-(Substituted phenyl)azo biphenyl azo - substituted carbopolycycle azo benzenesulfonic acid, sodium salt. (generic name)
Accession No. 26701 .. CAS No. CBI (NA)	CBI	CBI	Phenylazoaminohydroxynaphthalenylazobiphenylazo substituted benzene sodium sulfonate. (generic name).

TABLE 2—BENZIDINE-BASED CHEMICAL SUBSTANCES

CAS No.	C.I. name	C.I. No.	Chemical name
92–87–5	Benzidine	Not available	[1,1'-Biphenyl]-4,4'-diamine.
531–85–1	Benzidine · 2HCl ...	Not available	[1,1'-Biphenyl]-4,4'-diamine, dihydrochloride.
573–58–0	C.I. Direct Red 28	22120	1-Naphthalenesulfonic acid, 3,3'-[[1,1'-biphenyl]-4,4'-diylbis(azo)]bis[4-amino-, disodium salt.
1937–37–7	C.I. Direct Black 38	30235	2,7-Naphthalenedisulfonic acid, 4-amino-3-[[4'-[(2,4-diaminophenyl) azo][1,1'-biphenyl]-4-yl]azo]-5-hydroxy-6-(phenylazo)-, disodium salt.
2302–97–8	C.I. Direct Red 44	22500	1-Naphthalenesulfonic acid, 8,8'-[[1,1'-biphenyl]-4,4'-diylbis(azo)]bis[7-hydroxy-, disodium salt.
2429–73–4	C.I. Direct Blue 2 ..	22590	2,7-Naphthalenedisulfonic acid, 5-amino-3-[[4'-[(7-amino-1-hydroxy-3-sulfo-2-naphthalenyl)azo][1,1'-biphenyl]-4-yl]azo]-4-hydroxy-, trisodium salt.
2429–79–0	C.I. Direct Orange 8.	22130	Benzoic acid, 5-[[4'-[(1-amino-4-sulfo-2-naphthalenyl) azo][1,1'-biphenyl]-4-yl]azo]-2-hydroxy-, disodium salt.
2429–81–4	C.I. Direct Brown 31.	35660	Benzoic acid, 5-[[4'-[(2,6-diamino-3-[[8-hydroxy-3,6-disulfo-7-[(4-sulfo-1-naphthalenyl)azo]-2-naphthalenyl]azo]-5-methylphenyl]azo][1,1'-biphenyl]-4-yl]azo]-2-hydroxy-, tetrasodium salt.
2429–82–5	C.I. Direct Brown 2	22311	Benzoic acid, 5-[[4'-[(7-amino-1-hydroxy-3-sulfo-2-naphthalenyl) azo][1,1'-biphenyl]-4-yl]azo]-2-hydroxy-, disodium salt.
2429–83–6	Direct Black 4	30245	2,7-Naphthalenedisulfonic acid, 4-amino-3-[[4'-[(2,4-diamino-5-methylphenyl)azo][1,1'-biphenyl]-4-yl]azo]-5-hydroxy-6-(phenylazo)-, disodium salt.
2429–84–7	C.I. Direct Red 1 ...	22310	Benzoic acid, 5-[[4'-[(2-amino-8-hydroxy-6-sulfo-1-naphthalenyl)azo][1,1'-biphenyl]-4-yl]azo]-2-hydroxy-, disodium salt.
2586–58–5	C.I. Direct Brown 1:2.	30110	Benzoic acid, 5-[[4'-[(2,6-diamino-3-methyl-5-[(4-sulfo-1-naphthalenyl)azo]phenyl]azo][1,1'-biphenyl]-4-yl]azo]-2-hydroxy-, disodium salt.
2602–46–2	C.I. Direct Blue 6 ..	22610	2,7-Naphthalenedisulfonic acid, 3,3'-[[1,1'-biphenyl]-4,4'-diylbis(azo)]bis[5-amino-4-hydroxy-, tetrasodium salt.
2893–80–3	C.I. Direct Brown 6	30140	Benzoic acid, 5-[[4'-[(2,4-dihydroxy-3-[(4-sulfo-1-naphthalenyl) azo]phenyl]azo][1,1'-biphenyl]-4-yl]azo]-2-hydroxy-, disodium salt.
3530–19–6	C.I. Direct Red 37	22240	1,3-Naphthalenedisulfonic acid, 8-[[4'-[(4-ethoxyphenyl)azo][1,1'-biphenyl]-4-yl]azo]-7-hydroxy-, disodium salt
3567–65–5	C.I. Acid Red 85 ...	22245	1,3-Naphthalenedisulfonic acid, 7-hydroxy-8-[[4'-[(4-methylphenyl)sulfonyl]oxy]phenyl]azo][1,1'-biphenyl]-4-yl]azo]-, disodium salt.
3626–28–6	C.I. Direct Green 1	30280	2,7-Naphthalenedisulfonic acid, 4-amino-5-hydroxy-3-[[4'-[(4-hydroxyphenyl)azo][1,1'-biphenyl]-4-yl]azo]-6-(phenylazo)-, disodium salt.
3811–71–0	C.I. Direct Brown 1	30045	Benzoic acid, 5-[[4'-[(2,4-diamino-5-[(4-sulfo-1-naphthalenyl) azo]phenyl]azo][1,1'-biphenyl]-4-yl]azo]-2-hydroxy-, disodium salt.
4335–09–5	C.I. Direct Green 6	30295	2,7-Naphthalenedisulfonic acid, 4-amino-5-hydroxy-6-[[4'-[(4-hydroxyphenyl)azo][1,1'-biphenyl]-4-yl]azo]-3-[(4-nitrophenyl)azo]-, disodium salt.
6358–80–1	C.I. Acid Black 94	30336	2,7-Naphthalenedisulfonic acid, 4-amino-5-hydroxy-3-[[4'-[(4-hydroxy-2-[(2-methylphenyl)amino]phenyl]azo][1,1'-biphenyl]-4-yl]azo]-6-[(4-sulfo-1-naphthalenyl)azo]-, trisodium salt.
6360–29–8	C.I. Direct Brown 27.	31725	Benzoic acid, 5-[[4'-[(4-amino-7-sulfo-1-naphthalenyl)azo]-6-sulfo-1-naphthalenyl]azo][1,1'-biphenyl]-4-yl] azo]-2-hydroxy-, trisodium salt.
6360–54–9	C.I. Direct Brown 154.	30120	Benzoic acid, 5-[[4'-[(2,6-diamino-3-methyl-5-[(4-sulfo-1-naphthalenyl)azo]phenyl]azo][1,1'-biphenyl]-4-yl]azo]-2-hydroxy-3-methyl-, disodium salt.
8014–91–3	C.I. Direct Brown 74.	36300	Benzoic acid, 3,3'-[(3,7-disulfo-1,5-naphthalenediyl)bis [azo(6-hydroxy-3,1-phenylene)azo(6-or7)-sulfo-4,1-naphthalenediyl]azo[1,1'-biphenyl]-4,4'-diylazo]]bis[6-hydroxy-, hexasodium salt.
16071–86–6	C.I. Direct Brown 95.	30145	Cuprate(2-), [5-[[4'-[(2,6-dihydroxy-3-[(2-hydroxy-5-sulfo-1-naphthalenyl)azo]phenyl]azo][1,1'-biphenyl]-4-yl]azo]-2-hydroxybenzoato(4-)-], disodium salt.

(2) The significant new uses are:

(i) For each of the chemical substances listed in Table 2 of this section, any use other than use as a reagent to test for hydrogen peroxide in milk; a reagent to test for hydrogen sulfate, hydrogen cyanide, and nicotine; a stain in microscopy; a reagent for detecting blood; an analytical standard; and, additionally for Colour Index (C.I.) Direct Red 28 (Congo Red) (CAS No. 573-58-0), an indicator dye.

(ii) For the chemical substances listed in Table 1 of this section: Any use.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Revocation of certain notification exemptions.* The provisions of § 721.45(f) do not apply to this section. A person who imports or processes a chemical substance identified in paragraph (a)(1) of this section as part of an article for a significant new use described in paragraph (a)(2) of this section is not exempt from submitting a significant new use notice.

(2) [Reserved]

■ 5. Add § 721.10226 to subpart E to read as follows:

§ 721.10226 Di-n-pentyl phthalate (DnPP).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as di-n-pentyl phthalate (DnPP) (1,2-benzenedicarboxylic acid, 1,2-dipentyl ester) (CAS No. 131-18-0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new use is: Any use other than use as a chemical standard for analytical experiments.

(b) [Reserved]

■ 6. Add § 721.10227 to subpart E to read as follows:

§ 721.10227 Alkanes, C₁₂₋₁₃, chloro (CAS No. 71011-12-6).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as alkanes, C₁₂₋₁₃, chloro (CAS No. 71011-12-6) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new use is: Any use.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Persons who must report.* Section 721.5 applies to this section except for § 721.5(a)(2). A person who intends to manufacture for commercial purposes a

substance identified in paragraph (a)(1) of this section and intends to distribute the substance in commerce must submit a significant new use notice.

(2) [Reserved]

[FR Doc. 2014-29887 Filed 12-24-14; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2014-0409; FRL-9920-68-Region-3]

Approval and Promulgation of Air Quality Implementation Plan; Pennsylvania; Determination of Attainment for the 2008 Lead National Ambient Air Quality Standard for the Lyons Nonattainment Area

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to determine that the Lyons, Pennsylvania nonattainment area (hereafter referred to as the “Lyons Area” or “Area”) has attained the 2008 lead (Pb) national ambient air quality standard (NAAQS). On March 31, 2014, the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection, submitted a request to EPA to make a determination that the Lyons Area has attained the 2008 Pb NAAQS. This determination of attainment is based upon certified, quality-assured, and quality-controlled ambient air monitoring data from 2011–2013 which shows that the Area has monitored attainment for the 2008 Pb NAAQS. Additionally, as a result of this determination, EPA is taking final action to suspend the requirements for the Area to submit an attainment demonstration, together with reasonably available control measures (RACM), a reasonable further progress (RFP) plan, and contingency measures for failure to meet RFP or attainment deadlines for so long as the Area continues to attain the 2008 Pb NAAQS. This determination does not constitute a redesignation to attainment. The Lyons Area will remain designated nonattainment for the 2008 Pb NAAQS until such time as EPA determines that the Lyons Area meets the Clean Air Act (CAA) requirements for redesignation to attainment, including an approved maintenance plan. These actions are being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on January 28, 2015.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2014-0409. All documents in the docket are listed in the www.regulations.gov. Although listed in the electronic docket, some information is not publicly available, *i.e.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Ellen Schmitt, (215) 814-5787, or by email at schmitt.ellen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 2014 (79 FR 46211), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. In the August 7, 2014 NPR, EPA proposed to make a clean data determination, finding that the Lyons Area has attained the 2008 Pb NAAQS, based on certified, quality-assured, and quality-controlled ambient air monitoring data from 2011–2013. The Lyons Area is located in Berks County, Pennsylvania and bounded by Kutztown Borough, Lyons Borough, Maxatawny Township, and Richmond Township. *See* 40 CFR 81.339.

II. Summary of Rulemaking Action

EPA is taking final action to determine that the Lyons Area has attaining data for the 2008 Pb NAAQS. This determination of attainment is based upon certified, quality-assured, and quality-controlled air monitoring data that shows the Area has monitored attainment of the 2008 Pb NAAQS based on 2011–2013 data.

Other specific requirements of the determination of attainment and the rationale for EPA’s action are explained in the NPR published on August 7, 2014 (79 FR 46211) as well as in the Technical Support Document (TSD) that accompanied the NPR, and will not be restated here. The TSD is available in the docket for this rulemaking action at www.regulations.gov.

III. Effect of This Action

This final action suspends the requirements for the Lyons Area to

analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” which requires review by the Office of Management and Budget (OMB), as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.”

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866. VA’s impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA’s Web site at <http://www1.va.gov/orpm/>, by following the link for “VA Regulations Published.”

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the

private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.009 Veterans Medical Care Benefits and 64.011 Veterans Dental Care.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on September 16, 2013, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Dental health, Government contracts, Health care, Health professions, Health records, Veterans.

Dated: October 17, 2013.

William F. Russo,

Deputy Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, VA amends 38 CFR part 17 as follows:

PART 17—MEDICAL

- 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

- 2. In § 17.169, add paragraph (g) to read as follows:

§ 17.169 VA Dental Insurance Program for veterans and survivors and dependents of veterans (VADIP).

* * * * *

(g) *Limited preemption of State and local law.* To achieve important Federal interests, including but not limited to the assurance of the uniform delivery of benefits under VADIP and to ensure the operation of VADIP plans at the lowest possible cost to VADIP enrollees, paragraphs (b), (c)(1), (c)(2), (d), and (e)(2) through (5) of this section preempt conflicting State and local laws, including laws relating to the business of insurance. Any State or local law, or regulation pursuant to such law, is without any force or effect on, and State or local governments have no legal

authority to enforce them in relation to, the paragraphs referenced in this paragraph or decisions made by VA or a participating insurer under these paragraphs.

* * * * *

[FR Doc. 2013–24585 Filed 10–21–13; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2012–0268; FRL–9397–1]

RIN 2070–AJ95

Perfluoroalkyl Sulfonates and Long-Chain Perfluoroalkyl Carboxylate Chemical Substances; Final Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Under the Toxic Substances Control Act (TSCA), EPA is amending a significant new use rule (SNUR) for perfluoroalkyl sulfonate (PFAS) chemical substances to add PFAS chemical substances that have completed the TSCA new chemical review process, but have not yet commenced production or import and is designating (for all listed PFAS chemical substances) processing as a significant new use. EPA is also finalizing a SNUR for long-chain perfluoroalkyl carboxylate (LCPFAC) chemical substances that designates manufacturing (including importing) and processing for use as part of carpets or for treating carpet (e.g., for use in the carpet aftercare market) as a significant new use, except for use of two chemical substances as a surfactant in carpet cleaning products. For this SNUR, EPA is also making an exemption inapplicable to persons who import or process the LCPAC chemical substances as part of an article. Persons subject to these SNURs will be required to notify EPA at least 90 days before commencing any significant new use. The required notifications will provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

DATES: This final rule is effective December 23, 2013.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2012–0268, is available at <http://www.regulations.gov> or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency

Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Nicholas Nairn-Birch, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (202) 564-3668; email address: nairn-birch.nicholas@epa.gov.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave. Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

You may be potentially affected by this action if you manufacture (including import) or process any of the chemical substances listed in Table 4 of the regulatory text in this document or that meet the LCPFAC chemical category definition as described in this rule.

Potentially affected entities may include, but are not limited to:

- Manufacturers (including importers) of one or more of subject chemical substances (North American Industrial Classification System (NAICS) codes 325 and 324110); e.g., chemical manufacturing and petroleum refineries.
- Carpet and rug mills (NAICS code 314110).
- Fiber, yarn, and thread mills (NAICS code 31311).
- Home furnishing merchant wholesalers (NAICS code 423220).
- Carpet and upholstery cleaning services (NAICS code 561740).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The NAICS codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability

provisions in 40 CFR 721.5, 40 CFR 721.9582, and 40 CFR 721.10536, which is in the regulatory text of this document. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Persons who import any chemical substance governed by a final SNUR are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements and the corresponding regulations at 19 CFR 12.118 through 12.127; see also 19 CFR 127.28. Those persons must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA, including any SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)), (see 40 CFR 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

II. Background

A. What action is the agency taking?

In the **Federal Register** of August 15, 2012 (77 FR 48924) (FRL-9358-7), EPA proposed to amend a SNUR at 40 CFR 721.9582 for PFAS chemical substances to add PFAS chemical substances that have completed the TSCA new chemical review process, but have not yet commenced production or import, and to designate (for all listed PFAS chemical substances) processing as a significant new use. In addition, the Agency also proposed a new SNUR for LCPFAC chemical substances that designates manufacturing (including importing) and processing for use as part of carpets or for treating carpet (e.g., for use in the carpet aftercare market) as a significant new use. On December 30, 2009, EPA issued the "Long-Chain Perfluorinated Chemicals (PFCs) Action Plan" (Ref. 1). Today's action is consistent with the purpose of that action plan.

This final rule requires persons who intend to manufacture (including import) or process one or more of the PFAS chemical substances listed in Table 4 of the regulatory text for the uses identified in 40 CFR 721.9582(a)(2) to submit a Significant New Use Notice (SNUN) at least 90 days before

commencing manufacture (including import) or processing. Given the structural similarity of these chemicals to the PFAS chemicals covered under 40 CFR 721.9582 and EPA's health and environmental concerns associated with them, EPA has concluded that today's action on these PFAS chemicals is warranted and any manufacturing (including importing) or processing for any use of these uncommenced PFAS chemicals would be a significant new use.

EPA is also finalizing a SNUR for LCPFAC chemical substances that requires persons to notify the Agency at least 90 days before commencing manufacture (including import) or processing for use as part of carpets or for treating carpet (e.g., for use in the carpet aftercare market) as a significant new use, except for use of two LCPFAC chemical substances as surfactants in carpet cleaning products. Comments submitted to the docket after the comment period indicated use of two LCPFAC chemical substances as a surfactant in aftermarket carpet cleaning products as an ongoing use. The use of these two chemical substances is not included as a significant new use in this final rule.

For this SNUR, EPA is also making the article exemption at 40 CFR 721.45(f) inapplicable to persons who import LCPFAC chemical substances as part of carpets. The article exemption at 40 CFR 721.45(f) is based on an assumption that people and the environment will generally not be exposed to chemical substances in articles (see 49 FR 35014; September 5, 1984). However, as stated in Unit IV. of the proposed rule (77 FR 48928; August 15, 2012), exposure to LCPFAC chemical substances may occur both during the carpet manufacture process and during the lifetime of the finished carpet. Therefore, exposure would increase if in the future LCPFAC chemical substances are incorporated in carpets and then imported. The article exemption at 40 CFR 721.45(f) remains in effect, however, for persons who import LCPFAC chemical substances as part of other types of articles. The article exemption at 40 CFR 721.45(f) also remains in effect for processing of LCPFAC chemical substances as part of an article (i.e., carpet) since EPA is aware that this is an ongoing use. This final action does not affect the exemption at 40 CFR 721.45(f) for PFAS chemical substances, which remains in effect for persons who import or process these chemical substances.

The term PFAS refers to a general category of perfluorinated sulfonate chemical substances of any chain

length. The PFAS chemical substances for which EPA is modifying an existing SNUR are currently listed in 40 CFR 721.9582 in paragraph (a)(1). The PFAS chemical substances that EPA is adding to an existing SNUR are being inserted into this list. All of these chemical substances are collectively referred to in this rule as perfluoroalkyl sulfonates, or PFAS chemical substances.

The term LCPFAC refers to the long-chain category of perfluorinated carboxylate chemical substances with perfluorinated carbon chain lengths equal to or greater than seven carbons and less than or equal to 20 carbons. Based on comments filed on the proposed SNUR and all information available to EPA, the category definition of LCPFAC chemical substances differs in this final rule from the definition described in the proposed SNUR. The upper limit of the perfluorinated carbon chain length is now 20 carbons. In the proposed SNUR, there was no upper limit. Also, the LCPFAC chemical subgroup described in 40 CFR 721.10536(b)(1)(vi) of the proposed rule is removed from the definition in this final SNUR.

LCPFAC chemical substances are synthetic chemicals that do not occur naturally in the environment. The LCPFAC chemical substances subject to this SNUR are identified as follows, where $5 < n < 21$ or $6 < m < 21$:

- a. $\text{CF}_3(\text{CF}_2)_n\text{-COO}^-\text{M}$ where $\text{M} = \text{H}^+$ or any other group where a formal dissociation can be made;
- b. $\text{CF}_3(\text{CF}_2)_n\text{-CH=CH}_2$;
- c. $\text{CF}_3(\text{CF}_2)_n\text{-C(=O)-X}$ where X is any chemical moiety;
- d. $\text{CF}_3(\text{CF}_2)_m\text{-CH}_2\text{-X}$ where X is any chemical moiety, and
- e. $\text{CF}_3(\text{CF}_2)_m\text{-Y-X}$ where Y = non-S, non-N heteroatom and where X is any chemical moiety.

The category of LCPFAC chemical substances, based on the chemical structures delineated in 40 CFR 721.10536 (b)(1)(i) through (b)(1)(v) of this final rule, also includes the salts and precursors of these perfluorinated carboxylates. LCPFAC precursors may be simple derivatives of perfluorooctanoic acid (PFOA) and higher homologues or certain polymers that may degrade to PFOA or higher homologues. These precursors include all fluorotelomers.

It is important to note that any LCPFAC chemical substance identified by paragraphs (b)(1)(i) through (b)(1)(v) of this final rule that is intentionally used during fluoropolymer formulation, such as an emulsion stabilizer in aqueous dispersions, is subject to reporting for the significant new uses described in 40 CFR 721.10536(b)(2).

For example, ammonium perfluorooctanoate (APFO)—when used as an aqueous dispersion agent in fluoropolymer production—is subject to this SNUR if the final fluoropolymer product is used as part of carpets or to treat carpets.

B. What is the agency's authority for taking this action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in TSCA section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a SNUN to EPA at least 90 days before they manufacture (including import) or process the chemical substance for that use (15 U.S.C. 2604(a)(1)(B)). As described in Unit II.C., the general SNUR provisions are found at 40 CFR part 721, subpart A.

C. Applicability of General Provisions

General provisions for SNURs appear under 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. However, EPA is making the exemption at 40 CFR 721.45(f) inapplicable to persons who import LCPFAC chemical substances as part of carpets under this SNUR. As a result, persons subject to the provisions of this rule would not be exempt from significant new use reporting if they import LCPFAC chemical substances as part of carpets. However, the articles exemption will remain in effect for persons who process chemical substances as part of an article because existing stocks of carpets may still contain LCPFAC substances.

Provisions relating to user fees appear at 40 CFR part 700. According to 40 CFR 721.1(c), persons subject to SNURs must comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notices (PMNs) under TSCA section 5(a)(1)(A). In particular, these requirements include the information submissions requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA may take regulatory action under TSCA section 5(e), 5(f), 6 or 7 to control the activities

on which it has received the SNUN. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

Persons who export or intend to export a chemical substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret TSCA section 12(b) appear at 40 CFR part 707, subpart D. Persons who import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, codified at 19 CFR 12.118 through 12.127; see also 19 CFR 127.28. Such persons must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA, including any SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B.

III. Rationale and Objectives for This Final Rule

A. Rationale

As discussed in Units III. and IV. of the proposed rule (77 FR 48924; August 15, 2012), PFAS and LCPFAC chemical substances are found world-wide in the environment, wildlife, and humans. They are bioaccumulative in wildlife and humans, and are persistent in the environment. They are toxic to laboratory animals, producing reproductive, developmental, and systemic effects in laboratory tests. The exact sources and pathways by which these chemicals move into and through the environment and allow humans and wildlife to become exposed are not fully understood, but are likely to include releases from manufacturing of the chemicals, processing of these chemicals into products like carpets and textiles, and aging and wear of products containing them.

Since the manufacture (including import) and processing of PFAS and LCPFAC chemical substances for these uses have been discontinued in the United States, EPA expects their presence in humans and the environment to decline over time as has been observed in the past when production and use of other persistent chemicals has ceased. EPA is concerned that the manufacturing (including import) or processing of these chemical substances, as well as importing these chemicals as part of articles, for the new uses identified in this rule could be reinitiated in the future. If reinitiated, EPA believes that such use would increase the magnitude and duration of human and environmental exposure to

these chemical substances, constituting a significant new use.

EPA is adding processing of PFAS chemical substances (for any use in the United States, other than the uses listed under 40 CFR 721.9582 (a)(3), (a)(4), and (a)(5)) to the significant new uses of those chemical substances. EPA is concerned about the potential for PFAS chemical substances manufactured (including imported) for an ongoing use to be redirected to other uses without prior notice to the Agency. For example, a chemical substance could be initially manufactured for uses listed under 40 CFR 721.9582 (a)(3), (a)(4), or (a)(5), and then redirected for another use after its initial manufacture or import. For similar reasons, EPA is designating processing of LCPFAC chemical substances or use as part of carpets or to treat carpet as a significant new use, except for one specifically identified ongoing use of two LCPFAC chemical substances as a surfactant in aftermarket carpet cleaning products. As such, persons who process PFAS or LCPFAC chemical substances for a significant new use will be required to first notify EPA, even if they are not themselves manufacturers of the chemical substance. Note, the exemption at 40 CFR 721.45(f) is not applicable for persons who import these LCPFAC chemical substances as part of an article, but is applicable for persons who process these LCPFAC chemicals substances as part of an article. Pursuant to 40 CFR 721.45(f), processing of PFAS and LCPFAC chemical substances as part of articles remains exempt from notice requirements.

Accordingly, EPA will have the opportunity to evaluate and control, where appropriate, activities associated with those uses, if such manufacturing (including importing) or processing were to start or resume. The required notification provided by a SNUN will provide EPA with the opportunity to evaluate activities associated with a significant new use and an opportunity to protect against unreasonable risks, if any, from exposure to PFAS and LCPFAC chemical substances.

Consistent with EPA's past practice for issuing SNURs under TSCA section 5(a)(2), EPA's decision to promulgate a SNUR for a particular chemical use need not be based on an extensive evaluation of the hazard, exposure, or potential risk associated with that use. Rather, the Agency's action is based on EPA's determination that if the use begins or resumes, it may present a risk that EPA should evaluate under TSCA before the manufacturing or processing for that use begins. Since the new use does not currently exist, deferring a

detailed consideration of potential risks or hazards related to that use is an effective use of resources. If a person decides to begin manufacturing or processing the chemical for the use, the notice to EPA allows the Agency to evaluate the use according to the specific parameters and circumstances surrounding that intended use.

With this action, the Agency is designating as significant new uses of LCPFAC chemical substances use as part of carpet or to treat carpet. The Agency believes the 2010/2015 PFOA Stewardship Program, in which companies committed to work toward eliminating facility emissions and product content of PFOA—a LCPFAC chemical substance—by 2015, will eliminate many other ongoing uses of LCPFAC chemical substances. As those uses are phased out in the United States, EPA anticipates taking additional regulatory actions to prevent resumption of the uses without prior notice to EPA.

B. Objectives

Based on the considerations in Unit III.A. of this rule, EPA will achieve the following objectives with regard to the significant new use(s) that are designated in this rule:

1. EPA will receive notice of any person's intent to manufacture (including import) or process PFAS or LCPFAC chemical substances for the described significant new use before that activity begins.
2. EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing (including importing) or processing PFAS or LCPFAC chemical substances for the described significant new use.
3. EPA will be able to regulate prospective manufacturers (including importers) or processors of PFAS or LCPFAC chemical substances before the described significant new use of the chemical substance occurs, provided that regulation is warranted pursuant to TSCA sections 5(e), 5(f), 6 or 7.

IV. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.

- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.

- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorizes EPA to consider any other relevant factors.

To determine what would constitute a significant new use of the PFAS and LCPFAC chemical substances subject to this rule, as discussed herein, EPA considered relevant information about the toxicity of these substances, likely human exposures and environmental releases associated with possible uses, and the four factors listed in TSCA section 5(a)(2).

Except for the ongoing uses specified in 40 CFR 721.9582 (a)(3) through (a)(5), the Agency believes the manufacture (including import) and processing of any of the PFAS chemical substances subject to this rule has been discontinued. Any new use of these chemicals, including processing, could change the type and form of exposure and/or the magnitude and duration of exposure to humans and the environment relative to what currently exists. Based on these considerations of the statutory factors discussed in this unit, EPA has determined that the manufacture (including import) or processing of any of the PFAS chemical substances subject to this rule, for any use except ongoing uses specified in 40 CFR 721.9582 (a)(3) through (a)(5), is a significant new use.

Exposure to LCPFAC chemical substances may occur both during the carpet manufacture process and during the lifetime of the finished carpet via inhalation and ingestion of dust generated from the abrasion of carpets. This is of particular concern for children since they engage in a variety of activities on carpets for longer periods of time and have a greater degree of hand-to-mouth activity in their earliest years. This will change both the magnitude of exposure and the duration of exposure. Except for one ongoing use specified in 40 CFR 721.10536(b)(3), the Agency believes the manufacture (including import) and processing of LCPFAC chemical substances as part of carpet or to treat carpet has been discontinued. EPA also believes LCPFAC chemicals substances are no longer imported as part of carpet. If reinitiated, EPA believes these uses of LCPFAC chemical substances would significantly increase the magnitude and duration of exposure to humans and the

environment relative to what currently exists. Based on these considerations of the statutory factors discussed in this unit, EPA has determined that the manufacture (including import) or processing of any of the LCPFAC chemical substances subject to this rule for use as part of carpet or to treat carpets, except ongoing uses specified in 40 CFR 721.10536(b)(3), is a significant new use. EPA has further determined that importing any of the LCPFAC chemical substances subject to this rule as part of carpet constitutes a significant new use and warrants making inapplicable the article exemption at 40 CFR 721.45(f).

V. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

As discussed in the **Federal Register** of April 24, 1990 (55 FR 17376), EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the proposed rule rather than as of the effective date of the final rule. If uses begun after publication of the proposed rule were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notice requirements, because a person could defeat the SNUR by initiating the proposed significant new use before the rule became final, and then argue that the use was ongoing as of the effective date of the final rule. Thus, persons who may have begun commercial manufacture (including import) or processing of the chemical substance(s) subject to this rule for a significant new use after the proposal was published on August 15, 2012 (77 FR 48924), must cease such activity before the effective date of this final rule. To resume their activities, these persons will have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. Uses arising after the publication of the proposed rule are distinguished from uses that exist at publication of the proposed rule. The former would be new uses, the latter ongoing uses. To the extent that additional ongoing uses were found in the course of rulemaking, EPA has excluded these uses from the final SNUR. EPA promulgated provisions to allow persons to comply with this SNUR before the effective date. If a person were to meet the conditions of advance compliance under 40 CFR 721.45(h), that person would be considered to have met the requirements of the final SNUR for those activities.

VI. Test Data and Other Information

EPA recognizes that TSCA section 5 does not usually require developing any particular test data before submission of a SNUN. There are two exceptions: (1) Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)); and (2) development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)). In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (15 U.S.C. 2604(d); 40 CFR 721.25; and 40 CFR 720.50). However, as a general matter, EPA recommends that SNUN submitters include data that would permit a reasoned evaluation of risks posed by the chemical substance during its manufacture (including import), processing, use, distribution in commerce, or disposal. EPA encourages persons to consult with the Agency before submitting a SNUN. As part of this optional pre-notice consultation, EPA would discuss specific data it believes may be useful in evaluating a significant new use. SNUNs submitted for significant new uses without any test data may increase the likelihood that EPA will take action under TSCA section 5(e) to prohibit or limit activities associated with this chemical.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs that provide detailed information on:

1. Human exposure and environmental releases that may result from the significant new uses of the chemical substance.
2. Potential benefits of the chemical substance.
3. Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

VII. SNUN Submissions

EPA recommends that submitters consult with the Agency prior to submitting a SNUN to discuss what data may be useful in evaluating a significant new use. Discussions with the Agency prior to submission can afford ample time to conduct any tests that might be helpful in evaluating risks posed by the substance. According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notice requirements and EPA regulatory

procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710-25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 721.25 and 40 CFR 720.40. E-PMN software is available electronically at <http://www.epa.gov/opptintr/newchems>.

VIII. Discussion of the Final Significant New Use Rule and Response to Comments

This action finalizes the SNUR proposed in the **Federal Register** on August 15, 2012 (77 FR 48924). This final rule requires persons who intend to manufacture (including import) or process one or more of the chemical substances listed in Table 4 of the regulatory text for the uses identified in 40 CFR 721.9582(a)(2) to submit a SNUN at least 90 days before commencing manufacture (including import) or processing. This rule also requires persons who intend to manufacture (including import) or process one or more LCPFAC chemical substances, as defined in 40 CFR 721.10536(b)(1), for use as part of carpets or for treating carpets (except for one specifically identified ongoing use of two LCPFAC chemical substances as a surfactant in aftermarket carpet cleaning products) to submit a SNUN at least 90 days before commencing manufacture (including import) or processing.

It should be noted that the LCPFAC chemical substances category definition now delineates a perfluorinated carbon chain length upper limit of 20 carbons. The definition in the proposed rule contained no upper limit. Also, the LCPFAC chemical subgroup that was described in 40 CFR 721.10536(b)(1)(vi) of the proposal is removed from the definition in this final SNUR. The rationale for these changes is explained in greater detail in the response to comments below.

The Agency reviewed and considered all comments received related to the proposed rule. Copies of all non-CBI comments are available at <http://www.regulations.gov> in the public docket for this action, EPA-OPPT-2012-0268. A discussion of the comments germane to the rulemaking and the Agency's responses follow.

1. *Comment summary.* In defining the chemicals subject to this SNUR in the proposed rule, no upper limit was given for carbon chain length. Submitters suggested an upper limit of 20 carbons, which would exclude from the LCPFAC

category definition polymers weighing greater than 1,000 daltons.

Response. EPA agrees with commenters that there should be an upper limit to the chain length in the definition. PFAC chemicals with greater than 20 perfluorinated carbons can be considered polymers within the polymer exemption under 40 CFR 723.250 (e.g., exceed a molecular weight of 1,000 daltons and contain at least three monomer units). As it is not the Agency's intent to regulate fluoropolymers in this rule, the LCPFAC category definition in this final rule includes a perfluorinated carbon chain length upper limit of 20.

2. **Comment summary.** Commenters requested clarification as to whether or not fluoropolymers are included in the LCPFAC definition. Commenters also requested a definition of fluoropolymers that clearly distinguished them from fluorotelomer-based chemicals.

Response. It is not the Agency's intent to regulate fluoropolymers. The category definition is changed in this final rule to include a perfluorinated carbon chain length upper limit of 20. With this change, fluoropolymers no longer meet the LCPFAC chemical substances definition.

Since fluoropolymers are not subject to this SNUR, EPA will not include a definition of fluoropolymers. However, the Agency notes that it has distinguished fluoropolymer and fluorotelomer-based chemicals in two corresponding enforceable consent agreement test rules published on July 8, 2005 (70 FR 39630 and 70 FR 39623).

3. **Comment summary.** Several commenters argued that the proposed 40 CFR 721.10536(b)(1)(vi) ["structurally similar degradation products of any of the compounds in (i) through (v) of this paragraph"] is prohibitively broad and unnecessary and therefore unenforceable. They argued that it should be either removed or replaced with a definition that explicitly delineates LCPFAC precursors.

Response. The Agency agrees that the chemical subgroup definition described in 40 CFR 721.10536(b)(1)(vi) is unnecessary and it is removed from the LCPFAC category definition in this final rule. The Agency believes that 40 CFR 721.10536 (b)(1)(i)–(b)(1)(v) do not exclude any LCPFAC chemical substances defined in 40 CFR 721.10536(b)(1)(vi), and thus sufficiently define the LCPFAC category of chemicals.

4. **Comment summary.** A submitter claimed that the LCPFAC chemical category definition is not adequate to verify which chemicals are in use by

suppliers. Instead, a thorough list of CAS numbers is needed.

Response. EPA believes the most precise way to identify the chemicals subject to this SNUR is through the chemical structure definition. Downstream customers should have sufficient information from suppliers (i.e., CAS number and unique chemical identity) to generate the specific structure for any potentially reportable substance, which they can compare to the LCPFAC category definition.

As a convenience to the regulated community, EPA has made available in the public docket an illustrative list of chemical substances subject to the rule. As part of that list, EPA has provided specific examples of chemicals that meet the various components of the LCPFAC category definition.

5. **Comment summary.** A submitter suggested that 40 CFR 721.10536(b)(1)(ii) of the regulatory text should state " $\text{CF}_3(\text{CF}_2)_m\text{CH}=\text{CH}_2$, where $m > 6$ " rather than " $\text{CF}_3(\text{CF}_2)_n\text{CH}=\text{CH}_2$, where $n > 5$ " to be consistent with PFOA precursors identified in the PFOA Stewardship Program.

Response. EPA disagrees with this comment. The specific structural formula was chosen to accommodate the possibility of oxidation cleavage of the olefin to produce PFOA directly. Applied to the representative structure suggested by the submitter, this mechanism would produce perfluorononanoic acid (PFNA), which is one carbon longer than PFOA, the smallest of the LCPFAC chemical substances.

6. **Comments summary.** A commenter expressed concern that the article exemption was not made inapplicable to PFAS as part of carpets.

Response. The Agency recognizes this concern and is addressing it in the upcoming proposed SNUR for long-chain perfluoroalkyl carboxylate chemical substances. Doing so in the upcoming proposed SNUR will allow EPA to solicit and respond to any public comments.

7. **Comment summary.** Submitters requested clarification on the applicability of the articles exemption to export notifications.

Response. This SNUR does not require notice of export for articles as part of the section 5 action. In accordance with 40 CFR 707.60(b), persons who export LCPFAC chemical substances contained in articles remain exempt from notices of export under TSCA 12(b).

8. **Comment summary.** One commenter asserted that the following statement in the proposed rule's preamble is incorrect: "These precursors

include certain fluoropolymers and all fluorotelomers." In support of this assertion, the submitter notes that many new short-chain fluorotelomer products cannot break down to PFOA.

Response. The LCPFAC category definition does not include short-chain fluorotelomers. The quote refers only to precursors of the long-chain perfluorinated chemicals defined in 40 CFR 721.10536(b)(1), which excludes short-chain fluorotelomers. Fluoropolymers are also no longer included in the LCPFAC definition.

9. **Comment summary.** A commenter noted that even fluoropolymers not made with PFOA can have detectable levels of PFOA in them due to environmental cross-contamination, which creates an enforcement and compliance problem. The uncertainty this issue creates suggests that fluoropolymers should be excluded from the LCPFAC definition. The commenter also requested clarification of the term 'contamination' used in the preamble.

Response. Fluoropolymers are not subject to this SNUR. In the preamble of the proposed rule, the Agency referred to a 'contaminated' chemical as one that does not meet the LCPFAC definition itself, but that contains a LCPFAC chemical substance due to its *intentional* use during chemical formulation. In such a case, this LCPFAC chemical substance would be subject to this SNUR for the significant new uses described in 40 CFR 721.10536(b)(2). For example, APFO used as an emulsifier in the production of fluoropolymers would be subject to this SNUR for the significant new uses described in 40 CFR 721.10536(b)(2).

IX. Economic Analysis

A. SNUNs

EPA has evaluated the potential costs of establishing SNUR reporting requirements for potential manufacturers (including importers) and processors of the chemical substance included in this rule (Ref. 2). In the event that a SNUN is submitted, costs are estimated at \$8,589 per SNUN submission for large business submitters and \$6,189 for small business submitters. These estimates include the cost to prepare and submit the SNUN, and the payment of a user fee. Businesses that submit a SNUN would be subject to either a \$2,500 user fee required by 40 CFR 700.45(b)(2)(iii), or, if they are a small business with annual sales of less than \$40 million when combined with those of the parent company (if any), a reduced user fee of \$100 (40 CFR 700.45(b)(1)). The costs of

submission of SNUNs will not be incurred by any company unless a company decides to pursue a significant new use as defined in this SNUR. EPA's complete economic analysis is available in the public docket for this rule (Ref. 2).

The final SNUR will require importers of LCPFAC chemical substances as part of carpets to notify EPA at least 90 days before importing any such articles containing chemicals subject to the final rule. The final rule may also affect firms that do not currently import carpet containing the chemicals, but who may be interested in importing these articles in the future. Typically, firms have an understanding of the contents of the articles they import. However, EPA acknowledges that importers of articles may have varying levels of knowledge about the chemical content of the articles that they import.

While not required by the SNUR, these parties may incur costs to take additional steps to determine whether the articles they plan to import are covered by this SNUR. This determination may involve gathering information from suppliers along the supply chain, and/or testing samples of the article itself. EPA believes that the LCPFAC chemical substances included in this final rule are no longer being manufactured (including imported) for use as part of carpet or for treating carpet (e.g., for use in the carpet aftercare market) in the United States, except for use of two chemical substances in carpet cleaning solution, and that LCPFAC chemical substances are not being imported as part of carpets. Therefore, EPA believes that these costs would be minimal.

B. Export Notification

Under TSCA section 12(b) and the implementing regulations at 40 CFR part 707, subpart D, exporters must notify EPA if they export or intend to export a chemical substance or mixture for which, among other things, a rule has been proposed or promulgated under section 5. For persons exporting a substance the subject of a SNUR, a one-time notice must be provided for the first export or intended export to a particular country. The total costs of export notification will vary by chemical, depending on the number of required notifications (i.e., the number of countries to which the chemical is exported). EPA is unable to make any estimate of the likely number of export notifications for the chemical covered in this SNUR.

X. References

As indicated under **ADDRESSES**, a docket has been established for this rule under docket ID number EPA-HQ-OPPT-2012-0268. The following is a listing of the documents cited in this document. The docket includes information considered by EPA in developing this rule, including the documents listed in this unit, which are physically located in the docket. In addition, interested parties should consult documents that are referenced in the documents that EPA has placed in the docket, regardless of whether these referenced documents are physically located in the docket. For assistance in locating documents that are referenced in documents that EPA has placed in the docket, but that are not physically located in the docket, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**. The docket is available for review as specified under **ADDRESSES**.

1. USEPA. "Long-Chain Perfluorinated Chemicals Action Plan." December 30, 2009.
2. USEPA. "Economic Analysis of the Significant New Use Rule for Perfluoroalkyl Sulfonates and Long-Chain Perfluoroalkyl Carboxylate Chemical Substances." Prepared by Timothy Lehman and Abt Associates Inc. May 7, 2013.

XI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) has determined that this SNUR is not a "significant regulatory action," because it does not meet the criteria in section 3(f) of the executive order. Accordingly, this action was not reviewed by OMB under Executive Orders 12866 and 13563 (76 FR 3821; January 21, 2011).

B. Paperwork Reduction Act (PRA)

According to the PRA, 44 U.S.C. 3501 *et seq.*, an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in Title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument, or form, if applicable. The information collection

requirements related to this action have already been approved by OMB pursuant to the PRA under OMB control number 2070-0038 (EPA ICR No. 1188). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average 92 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

C. Regulatory Flexibility Act (RFA)

Pursuant to section 605(b) of the RFA, 5 U.S.C. 601 *et seq.*, the Agency hereby certifies that promulgation of this SNUR would not have a significant economic impact on a substantial number of small entities. The rationale supporting this conclusion is as follows. A SNUR applies to any person (including small or large entities) who intends to engage in any activity described in the rule as a "significant new use." By definition of the word "new" and based on all information currently available to EPA, it appears that no small or large entities presently engage in such activity. Since this SNUR will require a person who intends to engage in such activity in the future to first notify EPA by submitting a SNUN, no economic impact will occur unless someone files a SNUN to pursue a significant new use in the future or forgoes profits by avoiding or delaying the significant new use. Although some small entities may decide to conduct such activities in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemical substances, the Agency receives only a handful of notices per year. For example, the number of SNUNs was four in Federal fiscal year (FY) 2005, eight in FY 2006, six in FY 2007, eight in FY 2008, and seven in FY 2009. During this 5-year period, three small entities submitted a SNUN. Therefore, EPA believes that the potential economic impact of complying with this SNUR is not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published as a final rule on August 8, 1997 (62 FR 42690) (FRL-5735-4), the Agency presented its general determination that proposed and final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. *Unfunded Mandates Reform Act (UMRA)*

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reason to believe that any State, local, or Tribal government would be impacted by this rulemaking. As such, EPA has determined that this regulatory action would not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of sections 202, 203, 204, or 205 of UMRA, 2 U.S.C. 1531–1538.

E. *Executive Order 13132: Federalism*

This action would not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

F. *Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This rule does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This rule does not significantly or uniquely affect the communities of Indian Tribal governments, nor involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175 (65 FR 67249, November 9, 2000) do not apply to this rule.

G. *Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. *Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use.

I. *National Technology Transfer Advancement Act (NTTAA)*

Since this action does not involve any technical standards; section 12(d) of the NTTAA, 15 U.S.C. 272 note, does not apply to this action.

J. *Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898 (59 FR 7629, February 16, 1994).

XII. **Congressional Review Act (CRA)**

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: September 30, 2013.

Wendy C. Hamnett,

Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add the following section in numerical order under the undesignated center heading “Significant New Uses of Chemical Substances” to read as follows:

§9.1 OMB approvals under the Paperwork Reduction Act.

*	*	*	*	*
40 CFR citation		OMB control No.		
<hr/>				
*	*	*	*	*
Significant New Uses of Chemical Substances				
<hr/>				
*	*	*	*	*
721.10536		2070-0038		
*	*	*	*	*
<hr/>				
*	*	*	*	*

PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. In § 721.9582:

■ a. Revise paragraph (a)(1) introductory text.

■ b. Add Table 4 to paragraph (a)(1).

■ c. Revise paragraphs (a)(2) through (5).

The revisions and addition read as follows:

§721.9582 Certain perfluoroalkyl sulfonates.

(a) *Chemical substances and significant new uses subject to reporting.*
(1) The chemical substances listed in Table 1, Table 2, Table 3, and Table 4 of this section are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

* * * * *

TABLE 4—FOURTH SET OF PFAS CHEMICALS SUBJECT TO REPORTING

Premanufacture Notice Case No.	Generic chemical name
P–83–0126	Modified fluoroaliphatic adduct
P–90–0110	Fluorochemical epoxide
P–94–1508	Fluorinated polysiloxane
P–94–1509B	Fluorinated polysiloxane
P–98–0809	Fluorochemical esters
P–99–0296	Fluoroalkyl derivative
P–01–0035	Perfluorooctane sulfonate

(2) The significant new uses are:

(i) Manufacturing (including importing) or processing of any chemical substance listed in Table 1 of paragraph (a)(1) of this section for any use.

(ii) Manufacturing (including importing) or processing of any chemical substance listed in Table 2 of paragraph (a)(1) of this section for any

use, except as noted in paragraph (a)(3) of this section.

(iii) Manufacturing (including importing) or processing of any chemical substance listed in Table 3 of paragraph (a)(1) of this section for any use, except as noted in paragraphs (a)(3) through (5) of this section.

(iv) Manufacturing (including importing) or processing of any chemical substance listed in Table 4 of paragraph (a)(1) of this section for any use.

(3) Manufacturing (including importing) or processing of any chemical substance listed in Table 2 and Table 3 of paragraph (a)(1) of this section for the following specific uses shall not be considered as a significant new use subject to reporting under this section:

(i) Use as an anti-erosion additive in fire-resistant phosphate ester aviation hydraulic fluids.

(ii) Use as a component of a photoresist substance, including a photo acid generator or surfactant, or as a component of an anti-reflective coating, used in a photomicroolithography process to produce semiconductors or similar components of electronic or other miniaturized devices.

(iii) Use in coating for surface tension, static discharge, and adhesion control for analog and digital imaging films, papers, and printing plates, or as a surfactant in mixtures used to process imaging films.

(iv) Use as an intermediate only to produce other chemical substances to be used solely for the uses listed in paragraph (a)(3)(i), (ii), or (iii) of this section.

(4) Manufacturing (including importing) or processing of tetraethylammonium perfluorooctanesulfonate (CAS No. 56773-42-3) for use as a fume/mist suppressant in metal finishing and plating baths shall not be considered as a significant new use subject to reporting under this section. Examples of such metal finishing and plating baths include: Hard chrome plating; decorative chromium plating; chromic acid anodizing; nickel, cadmium, or lead plating; metal plating on plastics; and alkaline zinc plating.

(5) Manufacturing (including importing) or processing of: 1-Pentanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,5-undecafluoro-, potassium salt (CAS No. 3872-25-1); Glycine, N-ethyl-N-[(tridecafluorohexyl)sulfonyl]-, potassium salt (CAS No. 67584-53-6); Glycine, N-ethyl-N-[(pentadecafluoroheptyl)sulfonyl]-, potassium salt (CAS No. 67584-62-7); 1-Heptanesulfonic acid, 1,1,2,2,3,3,4,4,

5,5,6,6,7,7,7-pentadecafluoro-, ammonium salt (CAS No. 68259-07-4); 1-Heptanesulfonamide, N-ethyl-1,1,2,2,3,3,4,4,5,5,6,6,7,7,7-pentadecafluoro- (CAS No. 68957-62-0); Poly(oxy-1,2-ethanediyl), .alpha.-[2-[ethyl [(pentadecafluoroheptyl)sulfonyl] amino]ethyl]-.omega.-methoxy- (CAS No. 68958-60-1); or 1-Hexanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,6-tridecafluoro-, compd. with 2,2'-iminobis[ethanol] (1:1) (CAS No. 70225-16-0) for use as a component of an etchant, including a surfactant or fume suppressant, used in the plating process to produce electronic devices shall not be considered a significant new use subject to reporting under this section.

* * * * *

■ 5. Add § 721.10536 to subpart E to read as follows:

§ 721.10536 Long-chain perfluoroalkyl carboxylate chemical substances.

(a) *Definitions.* The definitions in § 721.3 apply to this section. In addition, the following definition applies: *Carpet* means a finished fabric or similar product intended to be used as a floor covering. This definition excludes resilient floor coverings such as linoleum and vinyl tile.

(b) *Chemical substances and significant new uses subject to reporting.*

(1) The chemical substances identified below, where $5 < n < 21$ or $6 < m < 21$, are subject to reporting under this section for the significant new uses described in paragraph (b)(2) of this section.

(i) $\text{CF}_3(\text{CF}_2)_n\text{-COO-M}$ where $\text{M} = \text{H}^+$ or any other group where a formal dissociation can be made;

(ii) $\text{CF}_3(\text{CF}_2)_n\text{-CH} = \text{CH}_2$;

(iii) $\text{CF}_3(\text{CF}_2)_n\text{-C(=O)-X}$ where X is any chemical moiety;

(iv) $\text{CF}_3(\text{CF}_2)_m\text{-CH}_2\text{-X}$ where X is any chemical moiety; and

(v) $\text{CF}_3(\text{CF}_2)_m\text{-Y-X}$ where Y = non-S, non-N heteroatom and where X is any chemical moiety.

(2) The significant new use for chemical substances identified in paragraph (b)(1) of this section are: Manufacture (including import) or processing for use as part of carpets or to treat carpets (e.g., for use in the carpet aftercare market), except as noted in paragraph (b)(3) of this section.

(3) Manufacture (including import) or processing of the following two long-chain perfluoroalkyl carboxylate (LCPFAC) chemical substances for use as a surfactant in aftermarket carpet cleaning products shall not be considered a significant new use subject to reporting under this section:

(i) Phosphonic acid, perfluoro-C6-12-alkyl derivs. (CAS No. 68412-68-0) and

(ii) Phosphonic acid, bis(perfluoro-C6-C12-alkyl) derivs. (CAS No. 68412-69-1).

(c) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (c).

(1) *Revocation of certain notification exemptions.* With respect to imports of carpets, the provisions of § 721.45(f) do not apply to this section. A person who imports a chemical substance identified in this section as part of a carpet is not exempt from submitting a significant new use notice. The other provision of § 721.45(f), respecting processing a chemical substance as part of an article, remains applicable.

(2) [Reserved]

[FR Doc. 2013-24651 Filed 10-21-13; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA-HQ-OAR-2010-0605; FRL-9900-53-OAR]

RIN 2060-AR70

Air Quality: Revision to Definition of Volatile Organic Compounds—Exclusion of 2,3,3,3-tetrafluoropropene

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action to revise the regulatory definition of volatile organic compounds (VOCs) for purposes of preparing state implementation plans (SIPs) to attain the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (CAA). This final action adds 2,3,3,3-tetrafluoropropene (also known as HFO-1234yf) to the list of compounds excluded from the regulatory definition of VOCs on the basis that this compound makes a negligible contribution to tropospheric ozone formation. As a result, if you are subject to certain federal regulations limiting emissions of VOCs, your emissions of HFO-1234yf may not be regulated for some purposes. This action may also affect whether HFO-1234yf is considered a VOC for state regulatory purposes, depending on whether the state relies on the EPA's regulatory definition of VOCs.

DATES: This rule is effective on November 21, 2013.

ADDRESSES: The EPA has established a docket for this action under Docket ID

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 7/2/2015 1:29:16 PM
To: 'Black, Jonathan (Tom Udall)' [Jonathan_Black@tomudall.senate.gov]; Karakitsos, Dimitri (EPW) [Dimitri_Karakitsos@epw.senate.gov]; Zipkin, Adam (Booker) [Adam_Zipkin@booker.senate.gov]; Deveny, Adrian (Merkley) [Adrian_Deveny@merckley.senate.gov]
Subject: SEPW TSCA TA

Jonathan,

This technical assistance responds to several requests. The language on small manufacturers is in addition to earlier TA on the same subject. The technical assistance is intended for use only by the requesters. The technical assistance does not necessarily represent the policy positions of the agency and the administration on the bill, the draft language and the comments. Please let me know if any additional questions. Thanks, Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

1. Regarding the “denominator issue”:

The following suggested redrafting is intended to effectuate what we understand to be the policy objective behind section 4A(c)(2)(A) without suggesting, as the current draft does, that “additional priorities” designated under 4A(c)(1) are a subset of high priority chemicals designated under subsections 4A(a)(2) or (b)(3). Our understanding of the policy objective is that, in calculating the number of additional priority chemicals, the denominator for the required 25%-30% range should be the number of high-priority chemicals designated under those subsections, not the total number of chemicals designated to undergo safety assessments and safety determinations. Redline is from the version voted out of Committee:

Sec 4A(c)(2)(A) – if a sufficient number of additional priority requests meet the requirements of paragraph (1), **the number of substances designated to undergo safety assessments and safety determinations under the process and criteria pursuant to paragraph (1) shall be** not less than 25 percent, or more than 30 percent, of the cumulative number of substances designated to undergo safety assessments and determinations under **subsections (a)(2) and (b)(3).** ~~this section are substances designated under the process and criteria pursuant to paragraph (1).~~

2. Regarding imports:

- Following is the new text that you requested, addressing existing chemical substances that were added to the TSCA inventory, after a Section 5 determination that they were not likely to meet the safety standard. Such a determination would trigger restriction under 5(d)(4), which would be part of the basis for a new exception to the export exemption.
- This resolves the technical concern about an exported new chemical substance being made subject to TSCA under (A) and then ceasing to be subject to TSCA as soon as the chemical substance becomes an existing chemical subject to a section 5 order. Once the chemical is added to the Inventory, it would remain excepted from the export exemption, but now under (C) rather than under (A).

- This also provides that if domestic uses of a new chemical substance are restricted under a section 5 order, it would only take a “likely to present” finding, with respect to the exported volumes, to later make the exported volumes of such chemical substance subject to TSCA jurisdiction.

“(2) EXCEPTION.—Paragraph (1) shall not apply to—

“(A) any new chemical substance that the Administrator determines is likely to present an unreasonable risk of injury to health within the United States or to the environment of the United States, without taking into account cost or other non-risk factors; ~~or~~

“(B) any chemical substance that the Administrator determines presents or will present an unreasonable risk of injury to health within the United States or to the environment of the United States, without taking into account cost or other non-risk factors; or

“(C) any chemical substance that:

- (i) **the Administrator determines is likely to present an unreasonable risk of injury to health within the United States or to the environment of the United States, without taking into account cost or other non-risk factors; and**
- (ii) **is subject to restriction under section 5(d)(4)**

3. Regarding small manufacturers:

- For purposes of Chemical Data Reporting, the operative definition of “small manufacturer or importer” is found at 40 CFR 704.3. Chemical manufacturers that fall under this definition are generally exempt from reporting. 40 CFR 711.9. The standard used in the definition of “small manufacturer or importer” was established in 1984. 49 FR 45425. In 2011, EPA analyzed potential small business impacts of Chemical Data Reporting using both the SBA employee size standards and the TSCA sales-based definition of small business. 76 FR 50858.

From: Black, Jonathan (Tom Udall) [mailto:Jonathan_Black@tomudall.senate.gov]

Sent: Monday, June 29, 2015 2:06 PM

To: Kaiser, Sven-Erik; Karakitsos, Dimitri (EPW); Zipkin, Adam (Booker); Deveny, Adrian (Merkley)

Subject: RE: SEPW TSCA TA

Thanks! I’m glad someone is keeping track!

From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]

Sent: Monday, June 29, 2015 2:05 PM

To: Black, Jonathan (Tom Udall); Karakitsos, Dimitri (EPW); Zipkin, Adam (Booker); Deveny, Adrian (Merkley)

Subject: SEPW TSCA TA

Jonathan,

I think there are 3 outstanding TA requests below. The first two are underway and included is the response to the small manufacturers definition question. Please let me know if any additional questions. Thanks,
Sven

– exports (EPA working on TA)

– cap on industry assessments (EPA to provide text change on p.22, line 18)

– small manufacturers definition